

## Department of Energy

## § 1045.42

guide or source document, by title and date, used to classify the document:

Derived from:

(Classification Guide or source document—  
title and date)

(4) An RD or FRD document shall be marked with the identity of the RD classifier, unless the classifier is the same as the document originator or signer.

RD Classifier:

(Name and position or title)

(c) *Interior Page*. RD classifiers shall ensure that RD and FRD documents are clearly marked at the top and bottom of each interior page with the overall classification level and category of the document or the classification level and category of the page, whichever is preferred. The abbreviations “RD” and “FRD” may be used in conjunction with the document classification (e.g., SECRET RD or SECRET FRD).

(d) *Declassification Marking*. Declassified RD and FRD documents shall be marked with the identity of the individual authorizing the declassification, the declassification date and the classification guide which served as the basis for the declassification. Individuals authorizing the declassification shall ensure that the following marking is affixed on RD and FRD documents which they declassify:

Declassified on:

(Date)

Authorizing Individual:

(Name and position or title)

Authority:

(Classification Guide—title and date)

### § 1045.41 Use of classified addendums.

(a) In order to maximize the amount of information available to the public and to simplify document handling procedures, document originators should segregate RD or FRD into an addendum whenever practical. When RD or FRD is segregated into an addendum, the originator shall acknowledge the existence of the classified addendum

unless such an acknowledgment would reveal classified information.

(b) When segregation of RD or FRD into an addendum is not practical, document originators are encouraged to prepare separate unclassified versions of documents with significant public interest.

(c) When documents contain environmental, safety or health information and a separate unclassified version cannot be prepared, document originators are encouraged to provide a publicly releasable rationale for the classification of the documents.

### § 1045.42 Mandatory and Freedom of Information Act reviews for declassification of restricted data and formerly restricted data documents.

(a) *General*. (1) Agencies with documents containing RD and FRD shall respond to mandatory review and Freedom of Information Act (FOIA) requests for these documents from the public.

(2) In response to a mandatory review or Freedom of Information Act request, DOE or DoD may refuse to confirm or deny the existence or nonexistence of the requested information whenever the fact of its existence or nonexistence is itself classified as RD or FRD.

(b) *Processing Requests*. (1) Agencies shall forward documents containing RD to DOE for review.

(2) Agencies shall forward documents containing FRD to the DOE or to the DoD for review, depending on which is the originating agency.

(3) The DOE and DoD shall coordinate the review of RD and FRD documents as appropriate.

(4) The review and appeal process is that described in subpart D of this part except for the appeal authority. DOE and DoD shall not forward RD and FRD documents to the Interagency Security Classification Appeals Panel (ISCAP) for appeal review unless those documents also contain NSI. In such cases, the DOE or DoD shall delete the RD and FRD portions prior to forwarding the NSI and unclassified portions to the ISCAP for review.

(5) *Information Declassification Actions resulting from appeal reviews*. (i) Appeal reviews of RD or FRD documents shall be based on existing classification

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guidance. However, the Director of Classification shall review the RD and FRD information in the appealed document to determine if it may be a candidate for possible declassification.

(ii) If declassification of the information appears appropriate, the Director of Classification shall initiate a formal declassification action and so advise the requester.

(c) *Denying Official.* (1) The denying official for documents containing RD is the Director of Classification.

(2) The denying official for documents containing FRD is either the Director of Classification or an appropriate DoD official.

(d) *Appeal Authority.* (1) The appeal authority for RD documents is the Chief Health, Safety and Security Officer.

(2) The appeal authority for FRD documents is either the Chief Health, Safety and Security Officer, or an appropriate DoD official.

(e) The denying official and appeal authority for Naval Nuclear Propulsion Information is the Director, Office of Naval Reactors.

(f) RD and FRD information contained in documents shall be withheld from public disclosure under exemption 3 of the FOIA (5 U.S.C. 522 (b)(3)) because such information is exempt under the statutory jurisdiction of the Atomic Energy Act.

[62 FR 68509, Dec. 31, 1997, as amended at 71 FR 68737, Nov. 28, 2006]

#### § 1045.43 Systematic review for declassification.

(a) The Secretary shall ensure that RD documents, and the DoD shall ensure that FRD documents, are periodically and systematically reviewed for declassification. The focus of the review shall be based on the degree of public and researcher interest and likelihood of declassification upon review.

(b) Agencies with RD or FRD document holdings shall cooperate with the Director of Classification (and with the DoD for FRD) to ensure the systematic review of RD and FRD documents.

(c) Review of documents in particular areas of public interest shall be considered if sufficient interest is demonstrated. Proposals for systematic document reviews of given collections

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or subject areas should be addressed to the Director, Office of Classification, HS-90/Germantown Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585-1290.

[62 FR 68509, Dec. 31, 1997, as amended at 71 FR 68737, Nov. 28, 2006]

#### § 1045.44 Classification review prior to public release.

Any person with authorized access to RD or FRD who generates a document intended for public release in an RD or FRD subject area shall ensure that it is reviewed for classification by the appropriate DOE organization (for RD) or the appropriate DOE or DoD organization (for FRD) prior to its release.

#### § 1045.45 Review of unmarked documents with potential restricted data or formerly restricted data.

(a) Individuals reviewing NSI records of permanent historical value under the automatic or systematic review provisions of E.O. 12958 may come upon documents that they suspect may contain RD or FRD, but which are not so marked. Such documents are not subject to automatic declassification.

(b) Such documents shall be reviewed by an RD Classifier as soon as possible to determine their classification status. Assistance may be requested from the Director of Classification.

[62 FR 68509, Dec. 31, 1997, as amended at 71 FR 68737, Nov. 28, 2006]

#### § 1045.46 Classification by association or compilation.

(a) If two pieces of unclassified information reveal classified information when associated, then RD classifiers may classify the document.

(b) RD classifiers may classify a document because a number of pieces of unclassified information considered together contain some added value such as completeness or comprehensiveness of the information which warrants classification.